

REMARKS

The Official Action of 17 March 2008 has been carefully considered and reconsideration of the application as amended is respectfully requested.

The independent claim has been rewritten more clearly to distinguish over the prior art with the incorporation into new independent claim 45 of the subject matter formerly in claims 1 and 10. The recitations in new claims 48-81 correspond with the recitations in the original claims with changes of a formal nature to render them more definite without narrowing the scope thereof. The recitations in new claims 46-47 draw support from the specification as filed at, for example, the paragraph bridging pages 1-2; the last paragraph on page 5; page 14, lines 25-27 and Table 2 on pages 16-20. These portions of the specification show that the claimed method can produce (+)CPA with an optical rotation of greater than the optical rotation (+40.5°) of the prior art method described in the Background portion of the specification with no more than two (2) recrystallization steps.

The amendment to the claims is respectfully believed to remove the basis for the rejection appearing at paragraph 3 of the Official Action and the claims as rewritten are otherwise believed to be sufficiently definite to satisfy the dictates of 35 USC 112, second paragraph.

Certain claims stand rejected under 35 USC 102(b) as allegedly being anticipated by Takuma et al. Other claims stand rejected under 35 USC 103(a) as

allegedly being unpatentable over Takuma et al in view of Yoneyoshi et al. Applicant respectfully traverses these rejections.

The claimed invention is based at least in part upon Applicants' discovery that, with the claimed method using (-)PEA as the resolving agent along with a solvent system comprising an alcoholic solvent that is used for both resolution and refinement, it is possible to obtain high optically pure (+)CPA in an environmentally friendly process with fewer recrystallization steps than in the prior art processes. This is described in the specification as discussed above and exemplified in Table 2.

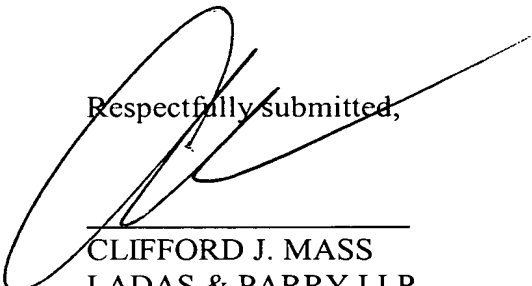
The cited primary reference, Takuma et al, does not show or suggest a process as claimed that uses (-)PEA as the resolving agent along with the claimed solvent system. Although, as pointed out by the Examiner, Takuma et al acknowledge that PEA is used as an optical resolving agent in other, prior art processes, Takuma et al do not show or suggest that it be incorporated into the process described therein. Indeed, Takuma et al teach that the use of (+)PTE of at least 95% optical purity is critical to the method described therein and thus teach away from the use of a different resolving agent (see Takuma et al at, e.g., page 3, line 13 to page 5, line 17). Under these circumstances, there would have been no motivation or reason to modify the Takuma et al process with the use of the claimed resolving agent. See MPEP 2141.03(VI) ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.").

With specific respect to claim 47, Takuma et al *a fortiori* do not show or suggest with even a reasonable expectation of success that the claimed process can be used to recover (+)CPA with an optical rotation of greater than +40.5° with no more than two (2) recrystallization steps.

The cited secondary reference, Yoneyoshi et al, cannot supplement the deficiencies in the primary reference. Yoneyoshi et al teach the use of a secondary amine as a resolving agent and thus teach away from (-)PEA as claimed. In addition to the advantages discussed above, the use of (-)PEA in the claimed process has the advantage that it can be used in a lesser weight percentage because of its low molecular weight, as compared with the higher quantities of secondary amine that are needed in the Yoneyoshi et al process. Moreover, Yoneyoshi et al do not show or suggest the claimed solvent system.

In view of the above, Applicants respectfully submit that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,



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